

CONSERVATION COMMISSION MEETING MINUTES

Meeting September 7, 2021 at 6:30 p.m. Virtual Meeting – 6:30 p.m.

This meeting will be conducted under the 'Executive Order Suspending Certain Provisions of the Open Meeting Law G.L. c.30A, §20', signed on March 12, 2020. The public can view this meeting on ACTV Channel 12, the ACTV website or their Facebook Page: www.facebook.com/AmesburyCommunityTelevision

Acting Chairman Thiel calls the September 7, 2021 Virtual Conservation Commission meeting to order at 6:31pm.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Conservation Commission on June 21, 2021 is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort is being made to ensure that the public can adequately access the proceedings as provided for in the Order.

A reminder that persons who would like to watch this meeting can do so on ACTV Channel 12, the ACTV website or the City of Amesbury Facebook Page: www.facebook.com/amesburyma

To submit a public comment, you may do so on the Facebook Live feed by beginning your comment with PUBLIC COMMENT. It will be read aloud at the appropriate time. Viewers may also email conservation@amesburyma.gov to submit a public comment. Individuals may call in at (646)749-3122
Access Code: 431-831-397

Chairman notes that tonight's Conservation Commission meeting is being recorded by Amesbury Public Access Television; this legal step has been taken, but does not act as the official record. The written meeting minutes by the Recording Secretary is the official record.

Attendance: Stephen Thiel, Michael Jewell, Kathy Pothier, James Babbin, and Evin Guvendiren

Also in attendance: Conservation Agent John Lopez, Angela Cleveland, Paul Gagliardi, John Hargraves of GA consultants Inc, Denis Hamel of GM2 Assoc., Michael Lynch, Scott Smyers of Oxbow Assoc.,

Transcription by: Kathy Pothier

Acting Chairman, Stephen Thiel takes attendance for the record:

Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbin	YES

ADMINISTRATIVE

Peer Review Process (Cleveland) – Angela Cleveland reviewed the 8 step process to hiring peer review consultants. 8 consultants have responded to requests for a quote. Commissioner Guvendiren asked how to hone down the number of RFQs, Angela Cleveland said that was to be determined. Commissioner Babbín asked if a peer review would be started without prior review from Conservation Commission, Angela Cleveland answered that it would not. Acting Chair Thiel asked if consultants would be hired on an ‘as needed’ or ‘minimum contract’ basis, Angela Cleveland answered that consultants would be hired as needed. Chairman Broadrick and Vice Chairman Jewell were chosen to interview companies who had responded to RFQs.

A motion to approve the peer review process was made by Commissioner Guvendiren, seconded by Commissioner Babbín and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Technical Review Committee (Cleveland) – Angela Cleveland presented on the need to re-establish a technical review committee made up of city experts (such as DPW, engineering, fire) who would be available for a technical review of permits, where needed.

A motion to support the technical review committee was made by Vice Chairman Jewell, seconded by Commissioner Babbín and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Enforcement Order –72 Elm Street (Aeros Communication)

Enforcement Order issued on 4.2.21 to assess violations within Riverfront of the Back River. Regulated activities conducted without a valid permit include excavation of a slope and stockpiling uncontained sediment. Order stipulated that the property owner was to retain the services of an engineer to assess impact and structural integrity of wall and provide a draft restoration plan. Due to lack of initial response the order was recorded on the deed at the direction of Commissioner Jewell. Stamped engineered draft plans have been received. Primary concerns were drainage and structural stability of wall.

Commissioner Babbín brought up concerns about the unstable slope and possible erosion and sedimentation of the catch basin. Commissioner Babbín believes that the wall is the best way to address

the unstable slope. John Hargraves, GA Consultants was in attendance to answer questions. The wall will be 14 feet at its highest point. Jute mat with hydroseed (native grass mix) will be added above the wall.

A motion to amend the Enforcement Order to included native seed and jute on top of the wall and a date certain of 10/29/21 with an as-built was made by Commissioner Babbín, seconded by Vice Chairman Jewell and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Appeal ORAD (002-1276) - 91 Macy Street (Yeo)

At the 8.2.21 meeting, the ACC issued an Order of Resource Area Delineation confirming the accuracy of Bordering Vegetated Wetlands and the inaccuracy of a stream. Based on a peer review by BSC the commission found the stream to be perennial and not intermittent as the applicant claims. The commission cited the stream appearing as perennial on the latest U.S. Geological Survey topographic map, which serves as a legal standard, as one factor in the finding. In addition, the applicant submitted data from 2007 which the ACC found dated. The burden of proof falls on the applicant to provide data which the commission finds valid to overturn the presumption of perennial. The applicant has filed an appeal requesting DEP to issue a Superseding Order of Resource Area Delineation overturning the commission's finding. A review will take place at DEP, which will include a site visit, to determine if the finding will be overturned or if the finding will be upheld. The appeal is filed under the ACC's finding pursuant to the MA Wetlands Protection Act. If the applicant wishes to pursue an appeal under the Amesbury Wetlands Ordinance, an appeal must be filed through the judiciary. No action is warranted at this time.

Enforcement Order – 77 Elm Street (Mill 77)

On June 1, 2021, Horsley Witten Group, Inc. (HW) staff visited the 77 Elm Street parking lot project site located in Amesbury, MA to review the work completed to date for conformance with the plans approved by the Amesbury Conservation Commission entitled "Mill 77 on 77 Elm Street Amesbury, Massachusetts", by the Horsley Witten Group Inc., dated November 2015 as well as subsequent revisions and the final plans approved by the Amesbury Planning Board entitled "Mill 77 - 77 Elm Street, Amesbury, Massachusetts", by the Horsley Witten Group, Inc., revised May 2016. The site was found to be completely out of compliance. A friendly Enforcement Order requiring an as-built plan and restoration plan be provided by the November 1, 2021 Conservation Commission meeting.

A motion to institute an Enforcement Order was made by Vice Chairman Jewell, seconded by Commissioner Pothier and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
----------------------	------------

Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Continued Business

Notice of Intent (002-1292) – 80 Fern Avenue (Lynch)

The NOI comes following a Request for Certificate of Compliance on an expired OoC issued by the commission on 3.16.87. The as-built plans associated with the RCoC cited a rear deck was constructed without a valid OoC approximately 50 ft. from the edge of Bordering Vegetated Wetland. The deck was constructed by the previous owner. which showed work was done without approval. The NOI is in support of the deck as constructed.

Comments

OoC and close hearing.

A motion to issue an Order of Conditions for 80 Fern Avenue was made by Vice Chairman Jewell, seconded by Commissioner Babbín and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Motion to close the hearing of NOI 002-1292 was made by Vice Chairman Jewell, seconded by Commissioner Pothier. All in favor.

Notice of Intent (002-1289) – 113 Whitehall Road (Haberland)

The property owner requests to continue to the October 4, 2021 meeting while the amount of fill, possibly requiring a special permit from the planning board is determined.

A motion to continue the NOI for 113 Whitehall Road to the October 4, 2021 meeting was made by Vice Chairman Jewell, seconded by Commissioner Pothier and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Notice of Intent (002-1245) – 79 High Street (Desmarais)

A motion to continue was requested while an endangered species review is completed.

A motion to continue to the NOI for 79 High Street to the October 4, 2021 meeting was made by Vice Chairman Jewell, seconded by Commissioner Babbín and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Notice of Intent (002-1283) – 54 Lake Attitash Road (Manseau)

The property owner requests to continue to the October 4, 2021 meeting.

A motion to continue NOI for 54 Lake Attitash Road to the October 4, 2021 meeting was made by Vice Chairman Jewell, seconded by Commissioner Babbín and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Notice of Intent (002-1279) - 9, 14, and 15 Estes Street (Zahoruiko)

The property owner requests to continue to the October 4, 2021 meeting.

A motion to continue NOI for 9, 14, and 15 Estes Street to the October 4, 2021 meeting was made by Commissioner Babbín, seconded by Commissioner Pothier and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

New Business

Request for Certificate of Compliance (002-0940) – 212 Lions Mouth Road (Cerny)

Request comes in support of an OoC on 8.14.07 and amended with an extension to 8.14.13 for site grading and vegetation removal including invasive species for the construction of a barn with an indoor riding paddock, outside paddocks, pastures, a gravel access drive and

stormwater management facilities. The access road, parking, paddocks and stormwater basins are within 100 ft. of Bordering Vegetated Wetlands. Scott Smyers of Oxbow Associates updated the invasive species control plan from 2010. A 'friendly' Enforcement Order was recommended to allow the applicant to implement the updated invasive species plan. The Commission recommended that the property owner provide a draft restoration plan for Commission review and approval as soon as possible if they wish to start work on spraying the invasive plants this fall and planting native plants in the spring. A 2 year monitoring period is required with a benchmark report in the spring of 2022. The property owner can submit the revised as-builts and RCoc at the same time in May 2022 and request the Commission to waive the file fee.

A motion to institute an Enforcement Order for 212 Lions Mouth Road was made by Commissioner Guvendiren, seconded by Vice Chairman Jewell and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbin	YES

A motion to deny the RCoC for 211 Lions Mouth Road was made by Vice Chairman Jewell, seconded by Commissioner Pothier and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbin	YES

NOI (002-xxxx) – 19 Paige Farm Road (Hayes)

NOI continued to the October 4, 2021 meeting because a DEP number has not been issued.

A motion to continue the NOI for 211 Lions Mouth Road to the October 4, 2021 meeting was made by Commissioner Babbin, seconded by Vice Chairman Jewell and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbin	YES

NOI (002-xxxx) – 91 Whitehall Road (Gilbert)

NOI continued to the October 4, 2021 meeting because a DEP number has not been issued.

A motion to continue the NOI for 91 Whitehall Road to the October 4, 2021 meeting was made by Commissioner Babbín, seconded by Vice Chairman Jewell and approved by Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

Minutes

May 3, 2021 meetin minutes –page 7, NOI for Estes St. should read ‘still met’. were accepted with one edit.

A motion to accept the May 3, 2021 meeting minutes with edits was made by Commissioner Babbín, seconded by Vice Chairman Jewell and approved by a Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

August 2, 2021 meeting minutes – page 5, ANRAD for 91 Macy Street ‘the’ should read ‘their’ expertise.

A motion to accept the August 2, 2021 meeting minutes with edits was made by Vice Chairman Jewell, seconded by Commissioner Pothier and approved by a Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES
Evin Guvendiren	YES
James Babbín	YES

A motion to close the Conservation Commission is made by Commissioner Pothier at 8:46pm, seconded by Vice Chairman Jewell and approved by a Rollcall Vote 5-0.

The Chairman called the Rollcall Vote:

Stephen Thiel	YES
Michael Jewell	YES
Kathy Pothier	YES

Evin Guvendiren	YES
James Babbitt	YES

Per the Massachusetts Open Meeting Law, the list of documents that were either distributed to the Amesbury Conservation Commission before the meeting in the packet or at the meeting.

1. Agenda
2. Agenda Guide
3. Stamped engineering plan for 72 Elm Street
4. Horsley & Witten Group Memo for 77 Elm Street
5. NOI – 80 Fern Ave.
6. Peer Review Memo.